

REMARKS

A Request for Continued Examination (RCE) under 37 CFR § 1.114 is hereby made.

By this amendment, claims 1, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 27, 28, 35, 36, 38, 41, 46, 49, and 50 have been amended. Claims 1-19 and 21-51 remain pending in the subject application, among which:

Claim 1 is an independent claim with claims 2-9 dependent therefrom;

Claim 10 is an independent claim with claims 10-14 dependent therefrom;

Claim 15 is an independent claim with claims 16-19 dependent therefrom;

Claim 21 is an independent claim with claims 22-26 dependent therefrom;

Claim 27 is an independent claim with claims 28-35 dependent therefrom;

Claim 36 is an independent claim with claims 37-40 dependent therefrom;

Claim 41 is an independent claim with claims 42-45 dependent therefrom; and

Claim 46 is an independent claim with claims 47-51 dependent therefrom.

Restriction Requirement

The Office Action imposes a restriction requirement to restrict the claims into two groups: claims 1-35 and 46-51 as

Group I, and claims 36-45 as Group II. This restriction requirement is respectfully traversed.

It is respectfully submitted that all claims in the subject application are drawn to a liftgate that is a freestanding assembly. Applicants hereby respectfully request the withdrawal of the improper restriction requirement.

Rejection of Claim 11 under 35 U.S.C. § 112

Claim 11 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as invention.

By this amendment, claim 11 have been amended. The amendment has placed claim 11 in compliance with 35 U.S.C. § 112, second paragraph, thereby overcoming the rejection of claim 11 under 35 U.S.C. § 112.

**Rejection of Claims 1-14, 21-35, and 46-51
under 35 U.S.C. § 103**

Claims 1-14, 21-35, and 46-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dunlop et al. (U.S. Patent No. 5,641,262, hereinafter referred to as "Dunlop") in view of Mortenson (U.S. Patent No. 4,078,676, hereinafter referred to as "Mortenson"). This rejection is respectfully traversed.

Dunlop discloses in column 3, lines 6-10, that attached to the upper portions of vertical brackets 3A, 3B are mounting brackets 7A, 7B which allow the entire mainframe 1 to be attached by conventional means to the rear of a vehicle as

shown in FIGS. 5A, 5B, and 5C onto which the lift gate is to be attached. Dunlop also discloses in column 4, lines 57-62, that when opened, the lift gate 87 is maintained in a horizontal position by means of two lift cables 89A, 89B which are each affixed at one end to the top of the vertical mounts 85A, 85B and at the other ends to the outer edge of the lift gate 87.

With respect to Element 81 mentioned in paragraph 8 (page 4) of the Office Action, Dunlop discloses in column 4, lines 16-21, that upper hinge arms 35A, 35B are pivotally attached to lift frame 81. The pivotal attachment may be made up of a pin 90, a bushing 91 and a snap ring 92 which holds the pin in place, or other conventional pivots may be used. Lower hinge arms 37A, 37B are pivotally attached by similar means to vertical brackets 3A, 3B and lift frame 81.

It is respectfully submitted that the lift disclosed by Dunlop is not cantilevered from the vehicle body as asserted in paragraph 8 (page 5) of the Office Action. The load on lift gate platform 87 is supported by the tension in lift cables 89A, 89B and the pressure on hinge pin 91 through holes 92A, 92B drilled in the bottoms of the vertical mounts 85A, 85B and inserted through a tube 94 which is affixed to the vehicle side of the lift gate 87 (Fig. 1).

Mortenson discloses in column 3, lines 8-17, that a lift gate assembly includes a fixed frame 10 which is designed to be fixedly mounted upon the frame 12 of a truck T or other load carrying vehicle at the rear of the load carrying bed B. Frame 10 includes a pair of relatively heavy transversely spaced vertical webs 14 which are fixedly secured at their upper ends to the truck frame to suspend and fixedly support a

horizontal transversely extending torque tube 16. In Fig. 1, Mortenson shows a truck bed extension plate 46 extending laterally beyond vertical webs 14. It is respectfully submitted that the liftgate disclosed by Mortenson does not have freestanding structure before attached to the vehicle.

Claim 1 calls for, among other things, a unitary frame, a hydraulically driven lift frame, an a liftgate platform; wherein the unitary frame, the hydraulically driven lift frame, and the liftgate platform form a freestanding assembly. A combination of these and other elements specified in claim 1 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination. Therefore, Dunlop in view of Mortenson cannot make claim 1 obvious.

Claims 2-9 depend from claim 1 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 1.

Claim 10 calls for, among other things, a unitary frame, an actuator driven lift frame, and a liftgate platform; wherein the unitary frame, the actuator driven lift frame and the liftgate platform form a freestanding assembly before being secured to the underside of the vehicle body. A combination of these and other elements specified in claim 10 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination. Therefore, Dunlop in view of Mortenson cannot make claim 10 obvious.

Claims 11-14 depend from claim 10 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 10.

Claim 21 calls for, among other things, that the unitary frame, the lift frame, and the liftgate platform forms

a freestanding liftgate assembly. A combination of these and other elements specified in claim 21 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination. Therefore, Dunlop in view of Mortenson cannot make claim 21 obvious under 35 U.S.C. § 103.

Claims 22-26 depend from claim 21 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 21.

Claim 27 calls for, among other things, that the a unitary frame, a lift frame pivotally, a platform having, and a motion limiting stop attached to the lift frame; wherein the unitary frame, the lift frame, and the platform form a freestanding assembly. A combination of these and other elements specified in claim 27 is neither taught nor suggested by Dunlop and Mortenson, either singly or in combination. Therefore, Dunlop in view of Mortenson cannot make claim 27 obvious under 35 U.S.C. § 103.

Claims 28-36 depend from claim 27 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 27.

Claim 46 calls for, among other things, providing a unitary frame comprising an opposing pair of side plates; pivotally attaching a lift frame to the side plates; rotatably attaching a liftgate platform to a pivot member of the lift frame; and attaching a motion limit member to the pivot member of the lift frame; wherein the unitary frame, the lift frame, and the liftgate platform forms a freestanding liftgate assembly. A combination of these and other elements specified in claim 46 is neither taught nor suggested by Dunlop and

Mortenson, either singly or in combination. Therefore, claim 46 is allowable over Dunlop in view of Mortenson.

Claims 47-51 depend from claim 46 and are allowable over Dunlop in view of Mortenson for at least the same reasons as claim 46.

Rejection of Claims 15-19 under 35 U.S.C. § 103

Claims 15-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mortenson in view of Dunlop. This rejection is respectfully traversed.

Claim 15 calls for, among other things, a unitary frame, a lift frame, and a liftgate platform; wherein before being secured to the underside of the vehicle body, the unitary frame, the lift frame the liftgate platform, and the extendable actuator forms a freestanding assembly with the liftgate platform in a stowed position. At least a combination of these elements and other elements specified in claim 15 is neither taught nor suggested by Mortenson and Dunlop, either singly or in combination. Therefore, claim 15 is allowable over Mortenson in view of Dunlop.

Claims 16-19 depend from claim 15 and are therefore allowable over Mortenson in view of Dunlop for at least the same reasons as claim 15.

Claims 36-45

Independent claim 36 calls for, among other things, a unitary frame, an actuator driven lift frame, and a liftgate platform rotatably attached to the actuator driven lift frame; wherein the unitary frame, the actuator driven lift frame, and the platform form a freestanding liftgate before being attached to the vehicle body.

Independent claim 41 calls for, among other things, a unitary frame, a lift frame, a liftgate platform, and an extendable actuator; wherein before being secured to the underside structure of the vehicle bed, the unitary frame, the lift frame the liftgate platform, and the extendable actuator forms a freestanding liftgate assembly with the liftgate platform in the stowed position.

The combinations of these and other elements specified in independent claims 36 and 41, and their respective dependent claims 37-40 and 42-45 are not taught or suggested in Mortenson and Dunlop, either singly or in combination. Therefore, Claims 36-45 are allowable over the relied on references of Mortenson and Dunlop.

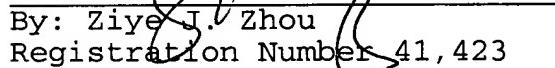
CONCLUSION

In view of above, claims 1-19 and 21-51 currently pending in the subject application are believed to be allowable and the subject application is in condition for allowance. Such action is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees to Manatt, Phelps & Phillips' Deposit Account No. **50-1847** or to credit any overpayment to the same for all matters during the prosecution of the subject application.

Respectfully submitted,

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